IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

S.T.Rev.No.258 of 2004

ORDER DATED 17.7.2001 IN T.A.40/2000 OF THE KERALA AGRICULTURAL INCOME TAX & SALES TAX APPELLATE TRIBUNAL, ADDL.BENCH-I, PALAKKAD
(ASSESSMENT YEAR 1996-97)

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PETITIONER/APPELLANT:-

M/S. SUPRABHA AGENCIES,
CHANDRANAGAR,
PALAKKAD.

BY ADV. SRI.K.T.SHYAMKUMAR

RESPONDENT/RESPONDENT:-

STATE OF KERALA.

BY SENIOR GOVERNMENT PLEADER MR.MUHAMMED RAFIQ

THIS SALES TAX REVISION HAVING COME UP FOR ORDERS ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.Dattu,C.J. & K.M.Joseph,J.

S.T.Rev.No.258 of 2004 & C.M.Appln.No.689 of 2004

Dated, this the 19th day of November, 2007

ORDER

H.L.Dattu,C.J.

The assessee has preferred this revision petition, being aggrieved by the orders passed by the Sales Tax Appellate Tribunal, Additional Bench-I, Palakkad in T.A.No.40 of 2000 dated 17/07/2001.

(2) There is a delay of nearly **749 days** in filing the revision petition. Therefore, an application is filed to condone the delay in filing the revision petition.

(3) In the affidavit filed along with the application, the applicant has stated at paragraphs 2 and 3 as under:

> "2. The above Revision is filed against the Order of the Sales Tax Appellate Tribunal, Additional Bench I, Palakkad in T.A.No.40/2000 dated 17.7.2001. The copy of the order was served on my Chartered Accountant's Office on 3.4.2002. The staff of my Chartered Accountant received the order and kept it in the assessment file for the year 1996-97. She forgot to tell my Chartered Accountant regarding the receipt of the order. The order lay in the file unnoticed.
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> 3. It is respectfully submitted that myself and my Chartered Accountant both were under the bonafide belief that the Tribunal was yet to pass orders in the appeal. In the meanwhile the constitution of the Additional bench at Palakkad changed. Believing that orders were not issued by the earlier Bench, my Chartered Accountant approached the Tribunal during the last week of May, 2004 and requested that the appeal may be posted for rehearing before the new Bench. It

was then on enquiry that it was made known to my Chartered Accountant that orders were passed in the appeal by the earlier Bench itself and the same was communicated also".

(4) The reasons in approaching the Court belatedly, according to the applicant, is because of the default committed by the staff of the assessee's Chartered Accountant. Apart from this, there is no other explanation. The explanation so offered by the applicant, in our opinion, cannot be believed and, again, wholly unsatisfactory. Therefore, the delay in filing the revision petition cannot be condoned by us. Accordingly, the application for condoning the delay in filing the revision petition requires to be rejected and it is rejected.

(5) Consequent to the rejection of the application for condonation of delay in filing the revision petition, the revision petition also stands rejected.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.M.Joseph
Judge

vku/-